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EXAMINER
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FLOOD, MICHELE C

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 07/24/2002

21

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/242,215

Applicant(s)

McAnalley et al..

Examiner

Michele Flood

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 4, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 6-17, 22, 27-36, and 40-43 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6-17, 22, 27-36, and 40-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 15 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restriction***

Applicant's election without traverse of Group I in Paper No. 18 is acknowledged.

Applicant's cancellation of Claims 18-21 is acknowledged.

This application contains claims 23-26, 37-39, and 44-47 drawn to an invention nonelected with traverse in Paper No. 18. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

**Claims 1, 6-17, 22, 27-36 and 40-43 are under examination.**

### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 34 is rendered vague and indefinite by the phrase “an herbal or plant extract of broccoli” because it is uncertain as to what is an herbal extract of broccoli. Applicant may overcome the rejection by placing extract after “herbal”.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 16, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell (A), and Linscott (B).

Applicant claims a dietary supplement composition for providing nutritional product saccharides in monomeric, oligomeric or polymeric and derivatized or underivatized form, which saccharides are essential components of glycoproteins in a mammal, said dietary supplement composition comprising nutritionally effective amounts of at least six saccharides, wherein said saccharides are selected from a first group of saccharides consisting of: galactose, glucose, mannose, xylose and acetylated mannose; and a second group of saccharides consisting of: N-acetylneuraminic acid, fucose, N-acetylgalactosamine, N-acetylglucosamine, arabinose, glucuronic acid, galacturonic acid, iduronic acid and arabinogalactan; wherein said composition

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comprises at least one saccharide selected from said first group of saccharides and at least one saccharide selected from said second group of saccharides. Applicant further claims a dietary supplement composition according to claim 1, wherein at least one of said saccharides is provided in oligomeric or polymeric form as found in at least one of the members recited in the Markush group of Claim 6. Applicant further claims a dietary supplement composition according to claim 1, further comprising nutritionally effective amounts of non-toxic vitamins and minerals. Applicant further claims a dietary supplement composition for providing nutritional product saccharides in monomeric, oligomeric or polymeric and derivatized or underivatized form, which saccharides are essential components of glycoproteins in a mammal, said dietary supplement composition comprising nutritionally effective amounts of at least six saccharides, wherein said saccharides are selected from a first group of saccharides consisting of: galactose, glucose, mannose, xylose; and a second group of saccharides consisting of: N-acetylneuraminic acid, fucose, N-acetylgalactosamine, N-acetylglucosamine, arabinose, glucuronic acid, and iduronic acid, wherein said composition comprises at least one saccharide selected from said first group of saccharides and at least one saccharide selected from said second group of saccharides.

Campbell teaches a dietary supplement for providing nutritional product saccharides comprising seaweed extract, aloe concentrate, and a trace element solution. The seaweed extract comprises fucose, galactose, mannose, xylose, glucose, glucuronic acid, and rhamnose; the trace element solution added to the seaweed extract comprises manganese, copper, iron, zinc, boron,

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and molybdenum (see Claim 2); and, the aloe extract comprises an acetylated mannose based polymer, as readily admitted by Applicant in Table 3 of the present application. See Column 7, lines 35-42.

Linscott teaches a granola bar as a dietary supplement fiber, which comprises numerous ingredients including apple pectin (galacturonic acid), gum arabic (arabinose, galactose, and glucuronic acid), gum ghatti (arabinose, galactose, mannose, xylose, and glucuronic acid), and guar gum (mannose and galactose), glucose, rice flour (glucose), and lecithin (see Column 2, lines 12-36 and claims). As the composition taught by Linscott comprises rolled oats, crisped rice, chopped almonds, corn bran, etc., non-toxic vitamins and minerals are intrinsically inherent to the composition taught by Linscott.

The references anticipate the claimed subject matter.

Claims 1 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Montreuil et al. (C).

Applicant's claimed invention was set forth above.

Montreuil teaches a glycoprotein comprising the monosaccharidic residues: mannose, galactose, fucose, glucose, xylose, N-acetylglucosamine, and N-acetylgalactosamine. It is noted that the reference does not teach that the composition can be used in the manner instantly claimed, however, the intended use of the claimed composition does not patentably distinguish the composition, per se, since such undisclosed use is inherent in the reference composition. In

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order to be limiting, the intended use must create a structural difference between the claimed composition and the prior art composition. In the instant case, the intended use does not create a structural difference, thus the intended use is not limiting.

The reference anticipates the claimed subject matter.

Claim 40 is rejected under 35 U.S.C. 102(b) as being anticipated by Citkowitz (U) or Ortega (D).

Applicant claims a dietary supplement composition for providing nutritional product saccharides, which saccharides are essential components of glycoproteins in a mammal, said dietary supplement comprising nutritionally effective amounts of galactose, glucose, mannose, N-acetylneuraminic acid, fucose, N-acetylgalactosamine, N-acetylglucosamine, and xylose.

Citkowitz teaches that sea urchin embryos comprise the instantly claimed saccharides. See Table 1 on page 496. As it well known in the art of gastronomy, sea urchin embryos may serve as a dietary supplement.

Ortega teaches a dietary supplement comprising sea urchin eggs. The instantly claimed saccharides are intrinsically inherent to the composition taught by Ortega, as evidenced by the teachings of Citkowitz set forth immediately above.

The references anticipate the claimed subject matter.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 7, 11, 16, 22 and 27-30 as amended are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (A) and Linscott (B) in view of Cayen et al. (E) and Pegel et al. (F). Newly applied as necessitated by amendment.

Applicant's claimed invention of Claims 1, 6, 16 and 22 was set forth above. Applicant further claims a dietary supplement comprising a nutritionally effective amount of dioscorea complex, and further comprising a nutritionally effective amount of beta sitosterol. Applicant further claims a dietary supplement composition according to claim 7, wherein said composition comprises from about 50 to about 99.9999 weight percent of said saccharides and from about 0.0001 to about 50 weight percent of said dioscorea complex. Applicant further claims a dietary supplement composition according to claim 7, wherein said composition comprises from about 30 to about 99.99 weight percent of said saccharides and from about 0.01 to about 70 weight percent of said dioscorea complex. Applicant further claims a dietary supplement composition according to claim 28, wherein said composition comprises from about 60 to about 90 weight percent of said saccharides and from about 10 to about 40 weight percent of said dioscorea complex. Applicant further claims a dietary supplement composition according to claim 29,



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wherein said composition comprises from about 80 weight percent of said saccharides and from about 20 weight percent of said dioscorea complex.

The teachings of Campbell and Linscott are set forth above. Campbell and Linscott teach the claimed invention except for dioscorea complex and beta sitosterol. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the claimed ingredients to the compositions taught by either Campbell or Linscott in the making of the claimed dietary supplement because Cayen teaches a composition comprising diosgenin (dioscorea complex) which is useful for lowering blood cholesterol and/or triglycerides, and which can be mixed with a beverage, for example water, milk or a fruit juice, or a food, for example, soups or a pulpy fruit; and, Pegel teaches medicaments, such as sitosterol- $\beta$ -glucoside of diosgenin, having prostaglandin synthetase inhibitor activity which are used in the treatment of various diseases (see Column 4, lines 37-54; and Example 2). At the time the invention was made, one of ordinary skill in the art would have been motivated and one would have had a reasonable expectation of adding the dioscorea complex ingredient taught by Cayen and the dioscorea complex/sitosterol ingredient taught by Pegel to the compositions taught by Campbell and Linscott to provide the claimed dietary supplement because both Cayen and Pegel teach that their compositions as having beneficial health promoting activity.

Moreover, it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the instant ingredients for their known benefit since each is well known in the art for their claimed purpose and for the following reasons. This

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rejection is based on the well established proposition of patent law that no invention resides in combining old ingredients of known properties where the results obtained thereby are no more than the additive effect of the ingredients, *In re Sussman*, 1943 C.D. 518. Applicants invention is predicated on an unexpected result, which typically involves synergism, an unpredictable phenomenon, highly dependent upon specific proportions and/or amounts of particular ingredients. Any mixture of the components embraced by the claims which does not exhibit an unexpected result (e.g., synergism) is therefore *ipso facto* unpatentable.

Accordingly, the instant claims, in the range of proportions where no unexpected results are observed, would have been obvious to one of ordinary skill having the above cited references before him.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

Claims 1, 6-17, 22 and 27-36 as amended are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (A), Linscott (B), Cayen et al. (E) and Pegel et al. (F) in view of Graves (G), Balch et al. (V), Policappelli et al. (H), Morrison (I), and Dohnalek et al. (J). Newly applied as necessitated by amendment.

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Applicant's claimed invention of claims 1, 6, 7, 11, 16, 22 and 27-30 was set forth above. Applicant further claims a dietary supplement composition according to claim 1, further comprising a nutritionally effective amount of a blend of freeze-dried and powdered raw fruits and vegetables. Applicant further claims a dietary supplement composition according to claim 8, further comprising a nutritionally effective amounts of xanthines and herbal body-toning agents. Applicant further claims a dietary further comprising a nutritionally effective amount of a blend consisting of ripened and freeze-dried and powdered raw fruits and vegetables of broccoli, brussel sprouts, cabbage, carrot, cauliflower, garlic, kale, onion, papaya, pineapple, tomato and turnip. Applicant further claims a dietary composition comprising a nutritionally effective amount of melatonin. Applicant further claims a dietary supplement, further comprising an effective amount of an saccharide bioabsorption aid, wherein the bioabsorption aid comprises soy lecithin. Applicant further claims a dietary supplement composition according to claim 16, wherein said vitamins comprise A, B1, B12, B2, B6, beta carotene, bioflavonoids, biotin, C, choline, D, E, folic acid, inositol, K, niacinamide, para-aminobenzoic acid, and pantothenic acid; and said minerals comprise boron, calcium, copper, GTF chromium, iodine, iron, magnesium, manganese, molybdenum, potassium, selenium, silicon, vanadium, and zinc. Applicant further claims a dietary composition according to claim 8, wherein said composition comprises from about 0.01 to about 99.999 of said saccharides and from about 0.001 to 99.99 of said blend of freeze-dried and powdered raw fruits and vegetables. Applicant further claims a dietary composition according to claim 31, wherein said composition comprises from about 1 to about

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80 weight percent of said saccharides and from about 20 to about 99 weight percent of said blend of freeze-dried and powdered raw fruits and vegetables. Applicant further claims a dietary supplement composition according to claim 32, wherein said composition comprises from about 5 to about 50 weight percent of said blend of freeze-dried powdered raw fruits and vegetables. Applicant further claims a dietary supplement composition according to claim 1, further comprising an herbal or plant extract of broccoli, brussel sprouts, cabbage, carrot, cauliflower, garlic, kale, onion, papaya, pineapple, tomato, asparagus, mushroom, parsnip, radish and turnip. Applicant further claims a dietary supplement composition according to claim 34, wherein said composition comprises from about 25 to about 99.999 weight percent of said saccharides and from about 0.001 to about 75 weight percent of said herbal or plant extract. Applicant further claims a dietary supplement composition according to claim 35, wherein said composition comprises from about 10 to about 90 weight percent of said saccharides and from about 10 to about 90 weight percent of said herbal or plant extract.

The combined teachings of Campbell, Linscott, Cayen, and Pegel are set forth above. The combined teachings of Campbell, Linscott, Cayen, and Pegel teach the claimed dietary supplement except for the numerous permutations of the instantly claimed ingredients, i.e., blend of freeze-dried and powdered raw fruits and vegetables; xanthines and herbal body-toning agents; melatonin; saccharide bioabsorption aid; and specified vitamins and minerals. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the instantly claimed ingredients to provide the claimed dietary supplement because Graves,

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Balch, Dohnalek, Policappelli, and Morrison teach the claimed ingredients as health-promoting agents. Firstly, Graves teaches a modified, edible pulp as a dietary supplement having hypochloesteric effect, which is made from dietary fiber. Sources of dietary fiber are selected from raw fruits such as apples, oranges, and grapefruit; and, raw vegetables such as carrots, corn, peas, and sugar beets; and grasses such as sugar cane; and grains such as barley and rice (see Column 6, lines 49-55). The modified pulp may be milled to form a flour or granulated for use as a table-top dietary supplement that is sprinkled onto various foods. The granulated table-top product may be combined with various herbs and spices. In Column 6, lines 53, Graves teaches that the major constituents of typical dietary fiber include cellulose, hemicellulose, lignin, and pectin. Graves further teaches that pectin comprises the saccharides galactose, arabinose, xylose, and fucose. Secondly, Balch teaches that melatonin, vitamins, and minerals are essential to life and the maintenance of health. In particular, Balch teaches melatonin, selenium, vitamin A, vitamin C, vitamin E, beta-carotene, and zinc as antioxidants which protect the body from the formation of free radicals that can cause damage to cell, impairing the immune system, and leading to infections and various degenerative diseases. Moreover, Balch describes the disclosed vitamins and minerals as phytochemicals, which are biologically active substances found in fruits, vegetables, grains and legumes that appear to reduce the risk of cancer, heart disease, diabetes and high blood pressure. Balch specifically points to broccoli, brussel sprouts, cauliflower, cabbage, tomatoes and soybeans, as sources of plant materials containing health-benefitting phytochemicals, minerals, vitamins, and other nutrients. Furthermore, Dohnalek

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teaches a method of administering a therapeutic effective amount of powdered oligosaccharides, e.g., fructooligosaccharides (FOS), fructosans, xylooligosaccharides and galactooligosaccharides to humans for the reduction of diarrhea. In Column 2, lines 13-18, Dohnalek teaches that FOS occur in many plants, e.g., onions, garlic, asparagus, and tomatoes. Thirdly, Policappelli teaches herbal toning agents. For instance, Policappelli teaches a composition for dietary supplementation comprising herbal extracts combined with glucomannan or galactomannan, which is used for weight loss, weight control, and reduction of fats in the bodily organs. Finally, Morrison teaches a food supplement comprising a combination of ingredients including soya lecithin and mucopolysaccharides, etc. (see abstract and Column 3, lines 10-29). In Column 1, lines 51 to Column 2, lines 1-11, Morrison teaches that the combination of the ingredients in his dietary supplement have a proven synergy shown by improved health against coronary artery disease, cerebrovascular disease, and intermittent claudication. At the time the invention was made, one of ordinary skill in the art would have been motivated and one would have had a reasonable expectation of success to add the ingredients taught by Graves, Balch, Policappelli and Morrison to the dietary supplement composition taught by the combined teachings of Campbell, Linscott, Cayen, and Pegel because Graves teaches his dietary supplement has enhanced hypocholesterolemic effect; Balch teaches the protective effects of the instantly claimed ingredients are found in plant materials and the claimed ingredients are often used in the making of multivitamin formulations, which can be sold as single dietary supplements; Dohnalek teaches that his oligosaccharides or fructooligosaccharides can be incorporated into the making

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of tablets, follow-on formula, toddler's beverages, yogurts, milks, fruit juice, and dietary supplements (see Column 3, lines 47-63); Policappelli teaches that his compositions reduce hunger, burn fat, and activate the body's metabolism without obligation to physical exercise (see Column 3, lines 50 to Column 4, lines 1-6); and Morrison teaches that lecithin has blood cholesterol lowering effect in patients with confirmed coronary heart disease (see Column 1, lines 48-50). This rejection is based on the well established proposition of patent law that no patentable invention resides in combining old ingredients of known characteristics where the results obtained thereby are no more than the additive effect of the ingredients. See *In re Sussman*, 1943 C.D. 518; *In re Huellmantel* 139 USPQ 496; *In re Crockett et al.*, 1266 USPQ 186.

Accordingly, the instant claims, in the range of proportions where no unexpected results are observed, would have been obvious to one of ordinary skill having the above cited references before him.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

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Claims 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Citkowitz (U) in view of Horiguchi (N).

The claimed invention of Claims 40-41 was set forth above. Applicant further claims a dietary supplement according to claim 41, wherein said composition further comprises rice flour. Applicant further claims a dietary supplement according to claim 40, wherein said composition further comprises a flowing agent and a lubricant. Applicant further claims a dietary composition according to claim 41, wherein said galactose, glucose, mannose, N-acetylneuraminic acid, fucose, N-acetylgalactosamine, N-acetylglucosamine, xylose and rice flour are present in said composition in a weight ratio 1 : 1 : 1 : 1 : 1 : 1 : 1 : 1 : 8.

Citkowitz teaches that sea urchin embryos comprise the instantly claimed saccharides. See Table 1 on page 496. Horiguchi teaches a food product comprising sea urchin roe (embryos) mixed with rice flour and/or wheat flour, and/or starch.

The teachings of Citkowitz and Horiguchi are set forth above. Since Horiguchi teaches that his sea urchin embryos are obtained from the species of *Evechinus roboticus*, it is not apparent that the sea urchin embryos taught by Horiguchi comprise the claimed six saccharides. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made and one would have been motivated and one would have had a reasonable expectation of success to replace the sea urchin embryos taught by Horiguchi with the sea urchin embryos taught by Citkowitz to provide a dietary supplement comprising the instantly claimed saccharides and rice flour because Citkowitz teaches that *Stronglyocentrotus purpuratus* sea urchin embryos



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comprise galactose, glucose, mannose, N-acetylneuraminic acid, fucose, N-acetylgalactosamine, N-acetylglucosamine, and xylose.

Thus, the combined teachings of Citkowitz and Horiguchi teach the claimed invention except for the particular saccharide to rice flour ratio instantly claimed, and flowing agent and lubricant. However, the adjustment of the effective ratio of saccharide to rice flour, as well as the addition of conventional additives used in the making of dietary supplements (i.e., flowing agent and lubricant), is deemed merely a matter of judicious selection and routine optimization, which would have been well within the purview of the skilled artisan at the time the invention was made.

Accordingly, the instant claims, in the range of proportions where no unexpected results are observed, would have been obvious to one of ordinary skill having the above cited references before him.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

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***Conclusion***

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is (703) 308-9432. The examiner can normally be reached on Monday through Friday from 7:15 am to 3:45 pm. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196 or the Supervisory Patent Examiner, Michael Wityshyn whose telephone number is (703) 308-4743.

MCF

May 7, 2002



**CHRISTOPHER R. TATE  
PRIMARY EXAMINER**